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Department of Children and Families

Report From Agency

Rule Report for Legislative Review

**Proposed Rules Relating to Establishment of Birth
Cost Orders Based on Child Support Guidelines**

**DWD 40
CR 08-066**

Basis and Purpose of the Proposed Rules

Under s. 767.89 (3) (e), Stats., the content of a paternity judgment shall include an order establishing the amount of the father's obligation to pay or contribute to the reasonable expenses of the mother's pregnancy and the child's birth. The amount established may not exceed one-half of the total actual and reasonable pregnancy and birth expenses.

The federal Office of Child Support Enforcement has issued an interpretation for cases under Section IV-D of the Social Security Act that requires birth cost orders to be set under a state's child support guidelines that take into consideration a father's ability to pay.

The proposed rules create a procedure for determining birth cost judgments in the child support guidelines in Chapter DWD 40 that incorporates the requirements of s. 767.89 (3) (e), Stats., and allows a court to consider a father's ability to pay.

Public Hearing Summary

A public hearing was held in Madison on July 29, 2008. A summary of the public comments and the Department's responses is attached.

Response to Legislative Council Staff Recommendations

All comments were accepted.

Changes to Analysis Prepared under Section 227.14 (2), Stats.

- Updated to reflect the transfer of agency authority from the Department of Workforce Development to the Department of Children and Families.
- Clarified substantive language to reflect mandatory provision that the birth cost judgment not exceed one-half of the actual and reasonable cost of the mother's pregnancy and the child's birth and permissive provision that court may order an amount based on the father's income.

- Updated discussion of federal minimum wage increase on July 24, 2008, from future to past tense.
- Updated discussion of federal regulation on medical support in child support cases from a rule proposed on September 20, 2006, to a final regulation issued on July 21, 2008.

Final Regulatory Flexibility Analysis

The rule may affect small businesses but will not have a significant economic impact on a substantial number of small businesses. The rule could affect a private insurance company seeking recovery of birth costs under s. 767.89 (3) (e), Stats., but the effect would be *de minimus*.

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